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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/304,906	05/04/1999	RALPH E. SIPPLE	33012/264/10	1322

27516 7590 09/22/2005

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EXAMINER	
TRAN, HAI V	

ART UNIT	PAPER NUMBER
2611	

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/304,906	SIPPLE ET AL.	
	Examiner	Art Unit	
	Hai Tran	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 July 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 07/01/2005 have been fully considered but they are not persuasive.

Effective date of the prior art "Cellular Multiprocessing Architecture":

It is noted that May 13, 1998 is the effective date of the press release in which Unisys announced an expected date of product release of the Unisys CMP system sometime during 1999. However, according to "NT news network" dated March 1998 by Mark Joseph Edwards @ www.windowsitpro.com/articles/print.cfm?articleid=2998, "NT news network" indicates/suggests that Unisys conceived the Unisys CMP system well before Unisys could made it public in which Unisys announced "... in 1998 it will release a mainframe for Windows NT- as Superserver with 32 Intel Pentium II or Intel Merced... Unisys will base the new server on its ServerPlus Cellular Multi-processing (CMP) technology...". As such, the Examiner will base on May 13, 1998, as effective/conceive date of Unisys CMP architecture.

Although, the press release does not contain the Unisys CMP system architecture, one of ordinary skill in the art would recognized that the architecture of the Unisys CMP system indicated in the press release is the same as the Unisys CMP architecture cited in the Whitepaper. As such, the Examiner maintain the rejection, unless Applicant (Unisys) proves it otherwise.

As to Applicant statement, "Applicants need not and indeed cannot produce any evidence in rebuttal thereof", the examiner reminds Applicant that Applicant has a duty to disclose information material to patent-ability, see MPEP 37 CFR 1.56.

Claim 1, applicant argues, "Wang cannot have the modularity and efficiency of the claimed invention as taught throughout Applicant's specification, because it utilizes the very same processor for both applications..."

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., ...because it utilizes the very same processor for both applications) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim 4, Applicant argues, "Wang has no 'subscribing receiver'. Therefore, Wang cannot meet this limitation. The Examiner has clearly erroneously equated client 101 of Wang to the claimed "subscribing receiver""

In response, the Examiner respectfully disagrees with Applicant because "subscribing receiver" is broadly read on Wang 's client 101, as a "subscribing receiver".

Claims 7, 9-13, 15-18, 21-24, Applicant fails to point out how the claim's limitations distinguish from the references applied but merely states, "Wang cannot

have these limitations or Wang has no provision for this functionality ...." The examiner asserts again that Wang meets all limitations claimed.

Claim 20, the Examiner asserts that the combination of Wang in view of Hendricks is proper because, 1st Wang is a system for delivering VOD to subscriber, 2nd Hendricks, an analogous art, discloses a VOD distribution system with billing process to subscribers (Col. 12, lines 29-55). 3rd, Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify Wang with the billing process, as taught by Hendricks, so to collect fees for the service provided, i.e., VOD, from the users.

For at least the reason set forth above, the rejection is maintained.

Requirement for Information

Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

- Date of the invention of the Unisys CMP architecture.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 4-7, 9-13, 15-19, 21-24 are rejected under 35 U.S.C. 102(e) as being unpatentable by Wang discloses et al. (US 5928327).

Regarding claim 1, Wang discloses in a VOD system for supplying requested video data to a plurality of subscriber receivers, the improvement comprising:

A 1st processor (Fig. 1A, el. 110) having a 1st architecture optimized to perform a variety of computational tasks, which spools the requested video data in response to the request (Col. 8, lines 47-52).

A video server memory 114 responsively coupled to the 1st processor 112 in which the spooled requested video data is stored (Col. 8, lines 16-26); and

A 2nd processor 120 having a 2nd hardware and software architecture different from the 1st hardware and software architecture optimized to perform I/O operations responsively coupled to the video server memory 114,130 and the subscriber receiver which accesses the spooled requested video data directly from the video server memory 114,130 without passing through the 1st processor (the 1st processor 112 does not decode the requested video data from the memory 114,130) and streams the spooled requested video data to the plurality of subscriber receivers in a plurality of streams spaced apart by a predetermined time (Col. 19, lines 64-Col. 21, lines 27).

Note: limitation "1st and 2nd hardware and software architecture" is inherently met by Wang 's system.

Claim 4 Wang discloses CCM 110 (1st processor 110) performs function as transaction server (each CCM 110 is a high performance computer motherboard running a robust multi-threading OS; Thus, CMM 110 is considered as "Transaction Server") responsively coupled to the subscribing receiver 101 and the video server memory .

Claim 5 wherein said requested video data further comprises MPEG-2 format (Col. 7, lines 15-26).

Claim 6, Wang discloses an apparatus comprising:

Two subscribing television receivers (Fig. 1A, el. 150) each of which providing a separate spaced apart service request for a video program;

A transaction server (Fig. 1A, el. 110) having a 1st hardware and software architecture responsively coupled to the two subscribing TV receivers;

A memory (Fig. 1A, el. 114, 130) responsively coupled to the transaction processor 110 having a copy of the video program in spooled form by the transaction server 110 in response to the service request (Col. 19, lines 18-23); and

A video processor (Fig. 1A, el. 120) having a second hardware and software architecture different from the 1st hardware and software architecture and optimized

for efficiently performing Input-Output operations responsively coupled to the memory and the two subscribing cable TV receivers which accesses the spooled video program directly from the memory without passing through the transaction server (the 1st processor 112 does not decode the requested video data from the memory 114,130) and streams the spooled video program to the two subscribing TV receivers as two separate spaced apart streams from the copy of the video program wherein the two separate spaced apart streams are spaced apart from each other by a time period which is greater than zero (Col. 19, lines 64-Col. 21, lines 27).

Claim 7, Wang further discloses wherein said 2nd processor 120 further comprises an industry compatible, Windows NT based processor (Intel based processor; Col. 7, lines 1-27).

Claim 9 is analyzed with respect to claim 5.

Claim 10, wherein the 1st architecture of the transaction server is optimized about a variety of processing operations (Col. 6, lines 37-60).

Claim 11, Wang discloses a VOD system comprising:

1st requesting means (1st subscriber terminal, i.e., 101) for requesting a VOD program at a 1st time (Col. 11, lines 17-27 and Col. 19, lines 64-Col. 21, lines 27).

2nd requesting means (2nd subscriber terminal, i.e., 101) for requesting the VOD program at a later 2nd time (Col. 11, lines 17-27 and Col. 19, lines 64-Col. 21, lines 27).

Transaction processing means (Fig. 1A, el. 110) having a 1st architecture optimized about a variety of processing operations responsively coupled to the 1st requesting means and the 2nd requesting means for spooling the VOD program (Col. 10, lines 40-Col.11, lines 17).

Storing means (Fig. 1A, el. 114, 130) responsively coupled to the transaction processing means 110 for storing a copy of the spooled VOD program (Col. 19, lines 18-23); and

Video processing means (Fig. 1A, el. 120) having a 2nd hardware and software architecture different from the 1st hardware and software architecture and optimized about I/O processing responsively coupled to the storing means without passing the requested video on demand program through the transaction processing means (the 1st processor 112 does not decode the requested video data from the memory 114,130) and from streaming the requested VOD program at a 1st time to the 1st requesting means and at a 2nd and later time to the 2nd requesting means (Col. 19, lines 64-Col. 21, lines 27).

Claim 12, wherein the 1st requesting means further comprises a subscriber box (Fig. 1A, el. 101 is a computer box).

Claim 13, wherein the video processing means further comprises an industry standard PC (Intel based processor; Col. 7, lines 1-27).

Claim 15, Wang further discloses wherein the transaction processing means (Fig 1A, el. 110) further comprises a transaction subsystem for managing archival storage of video streams in a hierarchical storage management system that is integrated with the management application and requires no manual intervention (Col. 7, lines 54-Col. 8, lines 8).

Claim 16, Wang discloses a method of providing VOD services comprising:

Generating a VOD request from a 1st subscriber at a 1st time (VOD system generally offer users a variety of control functions, i.e., request a VOD program from different users at different time).

Generating the VOD request from a 2nd subscriber at a 2nd later time (VOD system generally offer users a variety of control functions, i.e., request a VOD program from different users at different time).

Spooling a single copy of a video program corresponding to the VOD request into a memory by a transaction processor having a 1st hardware and software architecture (Col. 19, lines 18-23);

Streaming the corresponding video program directly from the single copy of the video program to the 1st subscriber at a 3rd time by a video processor having a 2nd architecture (Col. 19, lines 64-Col. Col. 21, lines 27); and

Streaming the corresponding video program from the single copy of the video program to the 2nd subscriber beginning at a time difference from and later than the 3rd time by the video processor (Col. 19, lines 64-Col. Col. 21, lines 27).

Claim 17, Wang further discloses streaming the corresponding video program to the 1st subscriber at the 3rd time and streaming the corresponding video program to the 2nd subscriber at a 4th time if the difference between the 2nd later time and the 1st time is greater than a predetermined interval (by regulating the start time of each video stream wherein the time is measured in predefined fixed length interval called time slots (T_n) Col. 19, lines 64-Col. Col. 21, lines 27).

Claim 18, Wang further discloses wherein the predetermined interval further comprises about 1 minute (the start of playback of the video object is assigned to the earliest available time zone (Z_i) associated with the storage device 131 from which the video stream will commence. The earliest available time zone (Z_i) is the next time zone (Z_i) having sufficient capacity to handle the playback without introducing any glitches in any video streams presently assigned to time zone Z_i; in doing so the predetermined time interval T_n is about or more or less than 1 minute so to minimize glitches; Col. 20, lines 27-33).

Claim 19, Wang further discloses further comprising:

Fast forwarding the streaming to the 1st subscriber in response to a fast-forward from the 1st subscriber (Col. 9, lines 33-40).

Claim 21, is analyzed with respect to claim 11.

Claim 22, wherein the 1st hardware and software architecture is optimized for a variety of transaction processing tasks (Col. 8, lines 47-52).

Claim 23, wherein the 2nd hardware and software architecture is optimized for I/O processing (Col. 19, lines 64-Col. 21, lines 27).

Claim 24, wherein the memory is a temporary memory for storage of the video program from the spooling to the streaming (Col. 19, lines 18-23).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 2-3, 8, 14, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. (US 5928327) in view of Unisys CMP Blends SMP and Clustering for High-End NT (Press released).

Claim 2, Wang does not disclose wherein video server said memory further comprises a Unisys CMP memory platform.

Unisys CMP Blends SMP and Clustering for High-End NT (now Unisys) Unisys discloses a Unisys CMP memory platform with an industry compatible processors, i.e., Windows NT based processor (whole document). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wang to use a Unisys CMP memory platform with industry compatible processors, as taught by Unisys, so to take the advantage of the well known "Intel" /NT based processor and to further improve the performance of I/O.

Claim 3 Wang further discloses wherein said 2nd processor 120 further comprises an industry compatible, Windows NT based processor (Intel based processor; Col. 7, lines 1-27).

Claims 8, 14 and 25 are analyzed with respect to claim 2.

3. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. (US 5928327) in view of Hendricks et al. (US 6201536).

Claim 20, Wang does not specifically disclose "Performing subscriber accounting to enable billing the 1st subscriber for the VOD request."

Hendricks discloses performing subscriber accounting to enable billing said subscriber for said video on demand request (performs database management, order and billing; Col. 12, lines 29-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wang with Hendricks so to be able to have and accurate a billing service of collecting fee from users.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7305. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HT:ht
09/16/2005

HAI TRAN
PRIMARY EXAMINER